

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7210

BILL NUMBER: HB 1492

NOTE PREPARED: Feb 9, 2009

BILL AMENDED:

SUBJECT: Environmental Litigation Expenses Compensation.

FIRST AUTHOR: Rep. Fry

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: *Compensation for Attorney's Fees.* This bill allows individuals who bring actions in court against the Department of Environmental Management (IDEM) to receive compensation for attorney's fees incurred in bringing the actions.

Litigation Expenses Reimbursement Fund. The bill establishes the Litigation Expenses Reimbursement Fund to award compensation for the attorney's fees. It provides that environmental civil penalties and 10% of the money that the IDEM would otherwise revert to the state General Fund at the end of the state fiscal year are deposited in the fund.

Litigation Expenses Reimbursement Review Board. The bill establishes the board to review applications for compensation and award compensation from the fund.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Litigation Expenses Reimbursement Fund.* The fund consists of civil penalties, 10% of IDEM's state General Fund reversions, appropriations, interest, and gifts. With respect to civil penalties, the bill takes penalties that would have been deposited in the Environmental Management Special Fund, the Waste Tire Management Fund, and the State Solid Waste Management Fund, and deposits the penalties into the Litigation Expenses Reimbursement Fund. IDEM anticipates receiving around \$200,000 in penalties each year. (In FY 2008 IDEM received over \$300,000 in penalties.)

The fund also consists of 10% of IDEM's state General Fund reversions. IDEM reverted \$5.9 M to the state General Fund in FY 2008. Ten percent of this reversion would equal \$590,000. For FY 2007, IDEM reverted

\$2.7 M to the state General Fund. For FY 2006, IDEM reverted \$2.6 M to the state General Fund. If IDEM were to revert \$2.5 M each year, 10% of the reversion would equal \$250,000.

Based on the data above, if reversions continue as in the past, and not including gifts, interest, and appropriations, revenue to the fund would equal about \$450,000 annually.

Expenses of administering the fund must be paid by IDEM. IDEM should be able to cover administrative expenses given its existing level of resources.

Compensation for Attorney's Fees. The bill establishes the fund for the purpose of awarding compensation for attorney's fees incurred by individuals who bring actions in court against IDEM. The amount of compensation that will be awarded by the board is indeterminable.

Litigation Expenses Reimbursement Review Board. The board consists of 4 members. Members are not entitled to per diem; however, members are entitled to reimbursement for traveling expenses and other expenses incurred in connection with the members' duties. Expenses incurred by the board will depend on traveling expenses associated with each meeting multiplied by the number of times the board meets.

Explanation of State Revenues: *Litigation Expenses Reimbursement Fund.* Based on recent years' data, the fund should receive around \$450,000 annually. The Treasurer of State must invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments must be deposited in the fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IDEM, State Treasurer.

Local Agencies Affected:

Information Sources: IDEM, State Budget Agency.

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